

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:15-CV-238-FL

DUPLIN WINE CELLARS, INC.,)

Plaintiff,)

v.)

FARRELLY, INC. and CHRISTY)

FARRELLY,)

Defendants.)

FARRELLY, INC.,)

Counterclaim Plaintiff,)

v.)

DUPLIN GOURMET, LLC; DUPLIN)

WINE CELLARS DISTRIBUTING LLC;)

DUPLIN WINE CELLARS RETAIL)

SALES, INC.; DUPLIN WINE)

CELLARS, INC.; DUPLIN WINE)

FAMILY, INC.; DAVID G. FUSSELL,)

JR.; JONATHAN D. FUSSELL;)

FUSSELL BROTHERS, LLC;)

RESERVATROL, INC.; SAGE DOT)

CORP.; SHERIAR PRESS, INC.; THE)

BISTRO AT DUPLIN WINERY, LLC;)

THE VILLAGE AT DUPLIN WINERY,)

LLC; and WRIGHT OF THOMASVILLE,)

INC.,)

Counterclaim Defendants.)

ORDER

This matter is before the court on defendants' motion to amend their answer and counterclaims, to which plaintiff, as well as all counterclaim defendants, have consented. (DE 82).


Where all parties have consented to the instant motion, and where the court finds that the proposed

amendment is not offered in bad faith, is not futile, and would not be prejudicial, the court GRANTS defendants' motion to amend their answer and counterclaim.

Also pending before the court is counterclaim defendant Sage Dot Corporation's motion to dismiss certain of defendant Farrelly, Inc.'s counterclaims for failure to state a claim upon which relief can be granted, made pursuant to Federal Rule of Civil Procedure 12(b)(6). (DE 49). In light of the court's order allowing defendants to amend their answer and counterclaims, and in view of defendants' and counterclaim defendant Sage Dot's agreement that defendants' amended answer and counterclaims moots counterclaim defendant Sage Dot's motion to dismiss, the court DENIES that motion AS MOOT. (DE 49).

The court DIRECTS defendants to docket separately their amended answer and counterclaims. Thereafter, plaintiff, as well as counterclaim defendants Duplin Gourmet, LLC; Duplin Wine Cellars Distributing LLC; Duplin Wine Cellars Retail Sales, Inc.; Duplin Wine Family, Inc.; David G. Fussell, Jr.; Jonathan D. Fussell; Fussell Brothers, LLC; The Bistro at Duplin Winery, LLC; The Village at Duplin Winery, LLC; and Reservatrol, Inc., shall file a reply within the time allowed by the Federal Rules of Civil Procedure. The court STAYS this case with regard to counterclaim defendants Sage Dot Corporation, Sheriar Press, Inc., and Wright of Thomasville, Inc., as outlined more particularly in the court's case management order. (DE 81).

SO ORDERED, this the 9th day of May, 2016.



LOUISE W. FLANAGAN
United States District Judge